



State of New Jersey

DEPARTMENT OF EDUCATION

PO Box 500

TRENTON, NJ 08625-0500

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

KEVIN DEHMER
Acting Commissioner

SCHOOL ETHICS COMMISSION

February 18, 2025

For Public Release

Subject – Public Advisory Opinion A01-25

The School Ethics Commission (Commission) received your request for an advisory opinion on your own behalf, as a member of the Board of Education (Board), as well as on behalf of the School District (District) Administrator. You verified that you copied the Administrator thus complying with *N.J.A.C. 6A:28-5.2(b)*. The Commission notes that the Administrator did not submit a response to your request, and therefore, the Commission will issue its advice based solely on the information included in your request. The Commission's authority to issue advisory opinions is expressly limited to determining whether any prospective conduct or activity would constitute a violation of the School Ethics Act. *N.J.S.A. 18A:12-31*. Pursuant to *N.J.S.A. 18A:12-28(b)*, your request was preliminarily discussed by the Commission at its Advisory Opinion Committee meeting on February 7, 2025, and again at its regularly scheduled meeting on February 18, 2025.

You inform the Commission that you own a franchise (Franchise) located in another school district. You state your Franchise does not have any "ties, whatsoever, to [the District]," as it is a "private business [located] in a different town."

You further inform the Commission that you and the Administrator "would like to establish a working relationship outside of the Board in which [the Administrator] does data entry of financial data (P&Ls reported by our franchises) into spreadsheets for the [Franchise]." You state this "paid work would be only a few hours each fiscal quarter" and does not involve any other responsibilities. You note that you and the Administrator have reviewed the public advisory opinions; however, "to the best of [your] knowledge, the concern raised in this request has not already been addressed by the Commission."

Based on the information provided in your request, you inquire whether it would be a conflict of interest for the Administrator to be employed by, and perform data entry work, for your Franchise.

As an initial matter, please be advised that the Commission's authority is limited to enforcing the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.*, a set of minimum ethical standards by which all school officials must abide. In this regard, the Commission has jurisdiction only over matters arising under the Act, and it may not receive, hear, or consider any matter that does not arise under the

Act, *N.J.A.C.* 6A:28-1.4(a). To the extent that you are requesting whether you may hire the Administrator or whether the Administrator may accept outside employment with your Franchise, the Commission notes it does not have jurisdiction over such determinations.

However, the Commission cautions that if you and the Administrator were to “establish a working relationship outside of the Board” his/her involvement in the Franchise, even in the minimal capacity that you have described, is riddled with potential ethical violations, and could lead to the filing of ethics complaints. This scenario, namely a Board member hiring an administrator from the same school district, creates a setting that is possibly compromising for the Board as a whole. Because the Administrator is an employee of the Board, and because he/she would be in contact with you as your employee if hired, his/her outside employment with the Franchise, even on a limited basis, has the potential to prejudice his/her independence of judgment in the exercise of his/her official duties.

Moreover, this type of working relationship creates significant entanglements, which could also present a substantial conflict with the proper discharge of your duties as a Board member and may impair your independence of judgment in the exercise of your Board duties. More specifically, if the Administrator were to be employed by you, you would be prohibited from participating in any matters related to the Administrator’s employment with the District, including his/her contract negotiations and evaluations, as well as any matters related to the Administrator’s role as the Administrator, such as matters related to the District’s financial and business operations, budgets and vendor contracts.

Ultimately, if you and the Administrator were to enter into a “working relationship outside of the Board” this relationship may contain numerous potential ethical violations, many of which may be incompatible with the Administrator’s and your ability to effectively serve the District in your respective roles. The public may perceive/view his/her employment with the Franchise in substantial conflict with his/her duties as the Administrator and with your role as a Board member, in contravention of the Act.

Although not part of your request, the Commission notes you should not use your position or attempt to use your office to solicit or obtain business for you and/or your Franchise. In enacting the Act, the Legislature found that “it is essential that the conduct of members of local boards of education and local school administrators hold the respect and confidence of the people.” *N.J.S.A.* 18A:12-22. As such, “board members and administrators must avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.” *Ibid.* You must consider the possible appearance of impropriety in all of your actions.

Finally, as a reminder, school officials must always be cognizant of their responsibility to protect the public trust, to honor their obligation to serve the interests of the public and the Board, and to periodically reevaluate the existence of potential conflicts of interest. In addition, the only way for a school official to truly safeguard against alleged violations of the Act is to avoid any conduct which could have the appearance, actual or perceived, of being in violation of the Act.

Sincerely,

Robert W. Bender, Chairperson
School Ethics Commission